

Planning and Development Reports

Committee Consideration – 10 August 2021

Council Resolution – 24 August 2021

Table of Contents

Item No. Page No.

PD27.21 [Reconsideration of Planning Application – No. 37 Strickland Street, Mount Claremont – Holiday House (Short Term Accommodation) 2](#_Toc78184494)

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| **PD27.21** | **Reconsideration of Planning Application – No. 37 Strickland Street, Mount Claremont – Holiday House (Short Term Accommodation)** |
|  | |
| **Committee** | 10 August 2021 |
| **Council** | 24 August 2021 |
| **Applicant** | David Joseph |
| **Landowner** | D Joseph and C Joseph |
| **Director** | Tony Free – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff and the proponents or their consultants.  Whilst parties may be known to each other professionally, this relationship is consistent with the limitations placed on such relationships by the Codes of Conduct of the City and the Planning Institute of Australia |
| **Report Type**  Quasi-Judicial | When Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal. |
| **Reference** | DA20-48595 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to objections being received. |
| **Attachments** | 1. Extract of 23 March 2021 OCM – Agenda containing report with recommendation to Council 2. Extract of 23 March 2021 OCM – Minutes |
| **Confidential Attachments** | 1. Plans 2. Updated Management Plan |

1. **Executive Summary**

The purpose of this report is for Council to reconsider a Development Application for an existing Holiday House (Short-Term Accommodation) at No. 37 Strickland Street, Mount Claremont.

At the 23 March 2021 Ordinary Council Meeting, the application was refused by Council. Subsequent to Orders being set out by the State Administrative Tribunal and a new Management Plan being received by the City, this application is presented to Council to reconsider the proposal and make a determination.

It is recommended that the application be refused by Council as the updated Management Plan does not materially change the development proposal as previously considered by Council on 23 March 2021. As such, Council’s previous decision from March 2021 is recommended.

**Recommendation to Committee**

**Council in accordance with Clause 68 (2) of the Planning & Development (Local Planning Schemes) Regulations 2015 resolves to refuse the development application dated 27 May 2020 for a Short Term Accommodation at Lot 96 (No. 37) Strickland Street, Mount Claremont for the following reasons:**

1. **The proposal is not compatible or complimentary with the adjoining residential development and is contrary to an objective of the Residential zone under the Scheme;**
2. **The proposal does not comply with Clause 67(2)(n)(iii) of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 as the development is not in keeping with the amenity of the locality, including the social impacts of the development and**
3. **The proposal would have a detrimental impact on the existing residential amenity and character of the immediate low density residential area.**
4. **Background**

**2.1 History of the Development Application:**

The timeline below refers to the history of the application thus far:

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| --- | --- |
| **May 2020** | Development application lodged with the City of Nedlands |
| **July 2020** | Application advertised to adjoining landowners and occupiers |
| **September 2020** | Application presented to Council for determination due to objections being received. At the Committee Meeting, the application was recommended for approval. At the Council Meeting on 22 September 2020, the item was deferred to October 2020 |
| **October 2020** | Application re-presented to Council for final determination, where the motion to approve was lost, and no decision was made. |
| **December 2020** | SAT Appeal lodged by applicant for Deemed Refusal (i.e. no decision having been made within the 90 day statutory time limit). |
| **January 2021** | Directions Hearing held at SAT – Orders made that the application is to be re-presented to Council for a final determination. |
| **March 2021** | Application presented to Council for determination. Application was refused by Council – please see **Attachment 2** for Minutes from the 23 March 2021 OCM. |
| **June 2021** | Mediation held at SAT – Orders made that the applicant is to provide additional information (Management Plan) to the City of Nedlands and the application is to be re-presented to Council for reconsideration. |
| **August 2021** | Application presented to Council for determination. |

1. **Application Details**

**3.1 Updated Management Plan**

Pursuant to Orders set by the SAT, the applicant has submitted an updated Management Plan which is contained as **Confidential Attachment 2** of this report.

To assist the applicant with the preparation of the updated Management Plan, four different examples of short term accommodation management plans were provided by the City’s representative. Although these management plans were examples of proposals outside of the City of Nedlands, the information was provided to the applicant so as to assist in providing a response to the City to reconsider the decision previously made on the proposal.

In the updated Management Plan, the applicant has added the following statements to assist with the consideration of the application:

* A dedicated website will be set up with owner’s contact details on the website;
* A sign on site will be set up;
* A register of clients using the short term accommodation will be maintained;
* A complaints register will be maintained.

The City notes that the updated Management Plan does not materially change the nature of the application as previously considered by Council at the March 2021 OCM. Additional information would be required to assist the Council in the reconsideration of the application, including the following information, but not limited to:

* What information and content will be uploaded on the website, including marketing of the short term accommodation to groups of people, how guests are selected and the vetting process;
* Details on the nature, size, content and location of the site;
* How often the register of clients will be updated and maintained, what information will be available on the register (arrival and departure dates, names of guests, contact details);
* How often the complaints register will be updated and maintained, how often the City of Nedlands will be provided the complaints register (weekly / fortnightly / monthly basis) what information will be available on the complaints register (nature of complaint, date, time and complaint details), action(s) taken to address complaints and any further actions required by applicants.

1. **Conclusion**

Council is requested to make a decision in accordance with clause 68(2) of the Deemed Provisions. Council may determine to approve the development without conditions (cl.68(2)(a)), approve with development with conditions (cl.68(2)(b)), or refuse the development (cl.68(2)(c)).

Although an updated Management Plan has been submitted by the applicant, the additional information submitted does not materially change the development proposal as previously considered by Council at the 23 March 2021 Ordinary Meeting. Accordingly, Council’s previous decision for a refusal is recommended for the reconsideration of the application.

The State Administrative Tribunal will consider the matter further in the light of Council’s determination. In the event that Council resolves to refuse the application as recommended, the applicant will have the right of review through a full hearing of the Tribunal.